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BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
HARMON, DIVISION OF COASTCRAFT,  
INC.,

Appellant,

v.

PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,

Respondent.

PCHB Nos. 80-133 & 80-134

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter, the appeal from the issuance of two \$250 civil penalties for the alleged violation of Section 9.03 of Regulation I, came before the Pollution Control Hearings Board, Nat Washington, chairman, and David Akana at a formal hearing on September 8, 1980, in Tacoma.

Appellant was represented by David F. Schmitz, its general manager; respondent was represented by its attorney, Keith D. McGoffin.

Having heard the testimony, having examined the exhibits, and having considered the contentions of the parties, the Board makes these

1 FINDINGS OF FACT

2 I

3 Appellant owns and operates a hog fuel boiler at 1933 Dock Street  
4 in Tacoma and within the geographical jurisdiction of respondent.

5 II

6 On May 21, 1980, at or about 9:05 a.m., a black/gray-colored plume  
7 having a 30 to 50 percent opacity was observed coming from the stack  
8 of appellant's hog fuel boiler for eight of ten minutes. For the  
9 foregoing event, appellant was given a notice of violation of Section  
10 9.03 of respondent's Regulation I which followed a \$250 civil penalty  
11 (No. 4719) and this appeal.

12 III

13 On June 6, 1980, at or about 8:20 a.m., a tan-colored plume having  
14 a 25 to 55 percent opacity was observed coming from the stack of  
15 appellant's hog fuel boiler for 14-3/4 minutes of the 17 minutes of  
16 observation. For this event, appellant was given a notice of  
17 violation of Section 9.03 of respondent's Regulation I from which  
18 followed a \$250 civil penalty (No. 4729) and a second appeal.

19 IV

20 Appellant does not dispute the fact of the two violations but does  
21 assert that the circumstances of the violations justify a waiver of  
22 the penalties. In the two instances, the primary operator was away  
23 from the plant. At those times, the boiler was starting up. The  
24 assistant operator failed to notify respondent of the cause of  
25 emissions on both occasions. Appellant has taken steps to provide  
26 knowledgeable backup operators in the future.

V

Pursuant to RCW 43.21B.260, respondent has filed with the Board a certified copy of its Regulations I and II which are noticed.

Section 9.03 makes it unlawful for any person to cause or allow the emissions of any air contaminant for more than three minutes in any one hour which emission is greater than or equal to 20 percent opacity.

Section 9.16 provides that emissions exceeding the limits established by the regulation as a direct result of start up or breakdowns shall not be deemed a violation provided certain requirements are met. One requirement is the notification of respondent.

Section 3.29 provides for a penalty of up to \$250 per day for each violation of Regulation I.

VI

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings the Board comes to these

CONCLUSIONS OF LAW

I

Appellant violated Section 9.03 as alleged on May 21, and June 6, 1980, for which the assessments of penalties were proper. The penalty should be mitigated in part for the occurrence on May 21. However, appellant had an opportunity to adjust its operating procedures by June 6, but did not do so, and further mitigation is not warranted. Accordingly, \$200 of the civil penalty for the May 21

1 violation is conditionally suspended; the penalties should be  
2 otherwise affirmed.

3 II

4 Any Finding of Fact which should be deemed a Conclusion of Law is  
5 hereby adopted as such.

6 From these Conclusions, the Board enters this

7 ORDER

8 1. The \$250 civil penalty (No. 4719) is affirmed; provided,  
9 however, that \$200 of the penalty is suspended on condition that  
10 appellant not violate respondent's Regulations for a period of six  
11 months from the date of this order.

12 2. The \$250 civil penalty (No. 4729) is affirmed.

13 DATED this 7<sup>th</sup> day of October, 1980.

14 POLLUTION CONTROL HEARINGS BOARD

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18 NAT W. WASHINGTON, Chairman

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21 DAVID AKANA, Member

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20 DAVID AKANA, Member